

PTO Form 1957 (Rev 9/2005)

OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78775861
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION (no change)	
ARGUMENT(S)	

REQUEST FOR RECONSIDERATION AND RESPONSE

This is in response to the Office Action dated January 26, 2007, in connection with the above-identified trademark application. Applicant respectfully requests that the application be reconsidered in light of the remarks that follow.

I. THE MARK HAS ACQUIRED DISTINCTIVENESS BASED ON AT LEAST FIVE YEARS USE UNDER SECTION 2(F)

The Examining Attorney has refused registration of Applicant's mark on the ground that Applicant's mark THE BRIDE'S PENDANT merely describes the recited goods. Applicant, however, maintains the position that the underlying refusal is improper and, thus, reserves its rights to argue that Applicant's mark is not merely descriptive of the recited goods.

Applicant seeks to register the mark under Section 2(f) of the Trademark Act, 15 U.S.C. § 1052(f), because Applicant's mark has acquired distinctiveness through substantially exclusive and continuous use. *See* 37 C.F.R. §§ 2.20, 2.41(b); *see also* T.M.E.P. § 1212.05 *et seq.*

Applicant has used its mark substantially exclusively and continuously in commerce in connection with the goods recited in the application for more than five years. More specifically, Applicant has been using the mark in connection with these goods since May of 2002. By reason of such substantially exclusive and continuous use, Applicant's mark THE BRIDE'S PENDANT has become distinctive of Applicant's recited goods as fully supported by the declaration of James H.

Stuckey, Jr., President of Stuckey Diamond, Inc., d/b/a The Stuckey Company. *See* Exhibit A, attached hereto.

II. CONCLUSION

In conclusion, Applicant submits that the substantially exclusive and continuous use of the mark in commerce in connection with the goods for more than five years satisfies the requirements for acquired distinctiveness. For the foregoing reasons, it is respectfully urged that Applicant's mark be approved for publication.

Respectfully submitted,

/s/

Robert F. Zielinski, Esq.
Attorney for Applicant

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	\\TICRS2\EXPORT13\787\758\78775861\xml1 \\ROA0002.JP G
DESCRIPTION OF EVIDENCE FILE	Declaration of Acquired Distinctiveness

ADDITIONAL STATEMENTS SECTION

SECTION 2(f)	"The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement."
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SIGNATURE SECTION

DECLARATION SIGNATURE	The filing Attorney has elected not to submit the signed declaration, believing no supporting declaration is required under the <i>Trademark Rules of Practice</i> .
RESPONSE SIGNATURE	/robertfzielinski/
SIGNATORY'S NAME	Robert F. Zielinski, Esq.
SIGNATORY'S POSITION	Attorney for Applicant
DATE SIGNED	06/04/2007
AUTHORIZED SIGNATORY	YES

FILING INFORMATION SECTION	
SUBMIT DATE	Mon Jun 04 14:05:13 EDT 2007
TEAS STAMP	USPTO/ROA-204.13.213.254- 20070604140513685642-7877 5861-370c8ecf72ee33b426c8 359ee294024fa4b-N/A-N/A-2 0070604135121314639

PTO Form 1957 (Rev 9/2005)

OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **78775861** has been amended as follows:

Argument(s)

In response to the substantive refusal(s), please note the following:

REQUEST FOR RECONSIDERATION AND RESPONSE

This is in response to the Office Action dated January 26, 2007, in connection with the above-identified trademark application. Applicant respectfully requests that the application be reconsidered in light of the remarks that follow.

I. THE MARK HAS ACQUIRED DISTINCTIVENESS BASED ON AT LEAST FIVE YEARS USE UNDER SECTION 2(F)

The Examining Attorney has refused registration of Applicant's mark on the ground that Applicant's mark THE BRIDE'S PENDANT merely describes the recited goods. Applicant, however, maintains the position that the underlying refusal is improper and, thus, reserves its rights to argue that Applicant's mark is not merely descriptive of the recited goods.

Applicant seeks to register the mark under Section 2(f) of the Trademark Act, 15 U.S.C. § 1052 (f), because Applicant's mark has acquired distinctiveness through substantially exclusive and continuous use. See 37 C.F.R. §§ 2.20, 2.41(b); see also T.M.E.P. § 1212.05 *et seq.*

Applicant has used its mark substantially exclusively and continuously in commerce in

connection with the goods recited in the application for more than five years. More specifically, Applicant has been using the mark in connection with these goods since May of 2002. By reason of such substantially exclusive and continuous use, Applicant's mark THE BRIDE'S PENDANT has become distinctive of Applicant's recited goods as fully supported by the declaration of James H. Stuckey, Jr., President of Stuckey Diamond, Inc., d/b/a The Stuckey Company. See Exhibit A, attached hereto.

II. CONCLUSION

In conclusion, Applicant submits that the substantially exclusive and continuous use of the mark in commerce in connection with the goods for more than five years satisfies the requirements for acquired distinctiveness. For the foregoing reasons, it is respectfully urged that Applicant's mark be approved for publication.

Respectfully submitted,

/s/

Robert F. Zielinski, Esq.
Attorney for Applicant

Evidence

Evidence in the nature of Declaration of Acquired Distinctiveness has been attached.

Evidence-1

Additional Statements

"The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement."

Declaration Signature

I hereby elect to bypass the submission of a signed declaration, because I believe a declaration is not required by the rules of practice. I understand that the examining attorney could still, upon later review, require a signed declaration.

Response Signature

Signature: /robertfzielinski/ Date: 06/04/2007

Signatory's Name: Robert F. Zielinski, Esq.

Signatory's Position: Attorney for Applicant

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 78775861

Internet Transmission Date: Mon Jun 04 14:05:13 EDT 2007

TEAS Stamp: USPTO/ROA-204.13.213.254-200706041405136

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294024fa4b-N/A-N/A-20070604135121314639

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Stuckey Diamonds, Inc.
d/b/a The Stuckey Company :

Serial No.: 78/775,861 :

Filed: December 19, 2005 :

For: **THE BRIDE'S PENDANT** :

Examiner: Ronald G. McMorrow
Examining Attorney
Law Office 105

DECLARATION OF ACQUIRED DISTINCTIVENESS

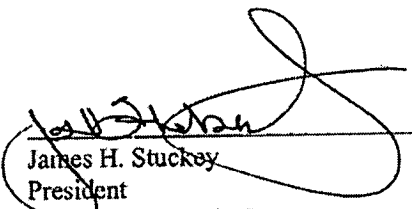
I, James H. Stuckey, President of Stuckey Diamonds, Inc., d/b/a The Stuckey Company, declare that:

I am the Applicant in the above-captioned trademark application.

Since as early as May 1, 2002, I have been using "THE BRIDE'S PENDANT" continuously in commerce in connection with diamonds and jewelry. The mark has become distinctive of the services through our substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement.

I declare further that all statements herein of my own knowledge are true; that all statements made herein on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application and any registration resulting therefrom.

Date: June 2, 2007


James H. Stuckey
President
Stuckey Diamonds, Inc.